

Remarks of Rep. Ileana Ros-Lehtinen
Ranking Member, Committee on Foreign Affairs
Hearing on: "The Recommendations of the National War Powers Commission"
March 5, 2009

Mr. Chairman, I want to join you in welcoming our distinguished witnesses this morning.

I am grateful for the time invested by Secretaries Baker and Christopher, our former Chairman Lee Hamilton, and their colleagues on the Commission and expertise in studying this challenging issue. Their insight and expertise is welcomed.

The life-and-death issue of committing our armed forces to combat is one of the most solemn responsibilities of our federal government -- a responsibility that has only become more complex since the deplorable attacks on our nation on 9/11.

The Constitution vests the Congress with the power to declare war and to raise and support armies, while making the President the Commander in Chief of the armed forces.

The proper exercise and interrelation of these war-making powers has been a source of historical ambiguity and tension, which some see as healthy, and others as dangerous.

The War Powers Resolution, an attempted Congressional corrective, was passed over President Nixon's veto in 1973, but has not produced a settled consensus.

In this context, it will be useful to hear from our witnesses about the details of their proposed replacement for the War Powers Resolution, which they have titled "The War Powers Consultation Act."

I am interested in learning why they believe it represents an improvement over the current War Powers Resolution, and how it would operate in current circumstances.

Congress always possesses the Constitutional authority to cut off funding for U.S. participation in any particular conflict.

But where no such consensus exists, our servicemen and women deserve our full support, including political support, for their mission and their sacrifices.

The Commission has attempted to address some of these issues by offering a proposal to serve as a starting point for possible legislative action.

I ask our witnesses to provide us with additional insight on how they intend their proposal to operate, on several issues.

First, I would be interested in understanding their decision to shift the statutory consequences of Congressional inaction.

Where the War Powers Resolution requires Congressional approval for the President to continue U.S. troop commitments beyond 60 days (though it has not been enforced in practice), the proposed Consultation Act would allow such deployments to continue in the absence of Congressional disapproval.

Second, their new definition of “significant armed conflict” specifically excludes a number of circumstances, such as:

- actions to repel or prevent imminent attacks
- limited acts of reprisal against terrorists
- acts to prevent criminal activity abroad, and
- covert operations, among others.

Given the generality of those exceptions and the ingenuity of the Executive Branch, I would like to understand how this new definition would improve, rather than intensify, the conflicting interpretations on authorities that have arisen under the War Powers Resolution.

Third, the Commission’s proposal would create a standing committee-- the Joint Congressional Consultation Committee (JCCC)-- as the focus for enhanced Congressional-Executive consultation.

Aside from the question of whether Congress can Constitutionally require the President to consult before exercising his authorities, how do you see this Joint Congressional Committee fundamentally improving pre-conflict consultation?

I again want to thank Secretary Baker, Secretary Christopher, and former Chairman Hamilton for their work on this report, which represents a fitting continuation of their distinguished careers in public service.

Thank you, gentlemen, for being here today.